

SB 337

Montana Board of Private Alternative Adolescent Residential & Outdoor Programs

Senate Business, Labor, and Economic Affairs

Mr. Chairman and members of the Committee, this written testimony is being respectfully submitted by the members of the Montana Board of Private Alternative Adolescent Residential or Outdoor Programs, PAARP. At its January 2015 meeting the board made the decision to unanimously support ***HB 337 –AN ACT ELIMINATING THE EXEMPTION FROM LICENSURE FOR AN ORGANIZATION OR SCHOOL THAT IS AN ADJUNCT MINISTRY OF A CHURCH INCORPORATED IN MONTANA; AND AMENDING SECTION 37-48-102, MCA.**"

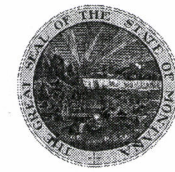
We thank you for all your efforts and attention to this important issue.

The PAARP Board is supporting SB 337 as an important and necessary clarification of the original legislation that authorized the creation of the PAARP board. The PAARP board was created by the legislature in 2007 in response to public demand for oversight of private residential programs operating in Montana that previously fell outside the regulatory authority of DPHHS. These programs serve primarily children and adolescents with emotional and behavioral struggles that are privately placed and funded by their parents when interventions within their local community have proved ineffective, and the child requires a safe, therapeutic residential environment. This legislation created a licensing board charged with establishing rules and standards of care for oversight of such programs.

At the hearing for the creation of the PAARP board it became apparent that due to safety concerns there was strong support for no longer allowing these programs to be exempt from regulation upholding safety and quality standards. Since the PAARP board was established all private programs serving the emotional and behavioral needs of children are now subject to clear oversight and regulation with the **specific exemptions** outlined in section **37-48-102**:

Definitions. As used in this part, the following definitions apply:

(6) (a) "Program" means a private alternative adolescent residential or outdoor program that provides a structured, private, alternative residential setting for youth who are experiencing emotional, behavioral, or learning problems and who have a history of failing in academic, social, moral, or emotional development at home or in less-structured traditional settings.



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(b) The term does not include:

- (i) any program that is required to be licensed or regulated by the state under Title 50, 52, or 53;
- (ii) recreational programs such as boy scouts, girl scouts, or 4-H clubs;
- (iii) organizations, boarding schools, or residential schools with a sole focus on academics;
- (iv) residential training or vocational programs with a sole focus on education and vocational training;
- (v) youth camps with a focus on recreation and faith-related activities; or
- (vi) an organization, boarding school, or residential school that is an adjunct ministry of a church incorporated in the state of Montana.**

The current PAARP board feels that all of these exceptions are reasonable except for exception number 6, any "residential school that is an adjunct ministry of a church incorporated in the state of Montana." We believe this definition is too broad, and as a result continues to allow private residential programs serving children and adolescents with emotional and behavioral struggles to be exempt from regulation upholding standards of safety and quality of care. We believe this exemption poses a clear danger to children placed in residential programs in the state of Montana. As it stands this exemption allows any private program in Montana to "affiliate" itself with a church and escape any requirement to follow the basic rules of safety and standards of quality.

Church affiliation is usually equated with ethical and safe behavior. Tragically, however, this is not always true. This has been demonstrated by the massive number of abuse cases by officials of organized churches made public over the past decade. This underscores the unfortunate truth that simply being an affiliate or adjunct of an organized church is no guarantee that such programs will be operated according to basic safety and quality standards. Moreover, there have been several recent articles and news program that have made allegations regarding certain church affiliated and unlicensed programs in Montana. (This written testimony includes links to some of those articles and news programs.) As a board we have been frustrated by complaints that have been registered against several such programs that fall outside of regulation by either DPHHS or PAARP. We have also spent thousands of dollars in legal fees when certain programs have wanted to avoid regulation and licensure by simply claiming to be an "adjunct ministry" of a church, even though they had no previous affiliation with the church.

As members of the PAARP board, we believe the PAARP board was created by the legislature upon the recognition that a moral imperative exists to protect our children, including children and adolescents with emotional and behavioral struggles. To that end the PAARP board was charged with establishing and upholding rules and standards of care for many previously exempt residential programs (those that serve privately placed and funded children). We believe this must now extend to programs currently exempt due to being an adjunct of a church. The PAARP board strongly and respectfully urges the legislature to pass SB 337 to eliminate this license exemption.

LINKS TO ARTICLES AND NEWS PROGRAMS

- Ungodly Discipline (a series of articles about a church affiliated program in Montana that is exempt from licensing):

<http://ac360.blogs.cnn.com/2012/08/03/tonight-on-ac360-ungodly-discipline-2/>

<http://ac360.blogs.cnn.com/2012/03/28/ungodly-discipline-no-state-oversight-at-religious-school/>

<http://ac360.blogs.cnn.com/2012/03/27/ungodly-discipline-abuse-accusations-at-a-christian-school/>

<http://www.cnn.com/video/#/video/us/2012/03/28/ac-pkg-tuchman-ungodly-discipline.cnn>

- Pinehaven Christian Children's Ranch Student Abuse: Preacher, Bob Larsson, Says 'Satan' Caused Accusations

<http://www.huffingtonpost.com/2012/03/29/pinehaven-christian-child n 1388178.html>

*The duty of the board goes beyond licensing and regulation.
We are obligated to protect youth & their families.*

Board Quick Facts

- The Board licenses and regulates private adolescent residential and outdoor programs based on average daily census.
- There are currently 14 licensed programs in Montana, 4 small programs, 7 medium programs and 3 large programs.
- The Board receive an average of 3 complaints each year
- The Board consists of 5 members all of which are appointed by the Governor and confirmed by the Senate. Board members represent small, medium and large programs and two members are chosen from the public.
- Board members serve three year terms.
- The Board meets a minimum of four times per year.

What is a State Private Alternative Adolescent Residential or Outdoor Program Board?

The purpose of the Montana Board of Private Alternative Adolescent Residential or Outdoor Programs is to license and regulate programs as a public service, to monitor and maintain a high standard of care, and to ensure the safety and well-being of the adolescents and parents using the programs. Necessary licensure processes and safety standards for programs are best developed and monitored by the professionals that are actively engaged in providing private alternative adolescent residential care.

The board also adopts rules establishing specific minimum criteria to ensure the health and safety of program participants and other rules necessary to implement the laws. Those criteria may incorporate by reference appropriate standards established by other governmental entities, including: building codes for those structures used as a residence for program participants; health and sanitation requirements; and other standards adopted by the Board by rule. The board shall evaluate each application for a license to determine whether the proposed plan of operation meets the specific minimum criteria set by rule; reasonably provides for the safety and well-being of program participants; and is consistent with the goals and objectives stated in the plan of operation

The ability to practice in one of the licensed occupations in Montana is not an inherent right of an individual or group, but a privilege granted by the people of a state acting through their elected representatives. The public is protected from the unprofessional, improper and incompetent practice through laws and regulations. It is the duty of the Montana Board of Private Alternative Adolescent Residential or Outdoor Programs to regulate the practice.

Private Alternative Adolescent Residential or Outdoor Program Board Structure

Board membership is composed of volunteers who are charged with upholding the statutes and rules. Five voting members are appointed by the Governor. Three board members are chosen according to their representation of small, medium and large programs and two members of the public.

The Board is attached for administrative purposes to the Department of Labor & Industry. Funding comes from licensing fees. Any fines imposed are deposited into license. There is licensing & legal staff & one executive officer assigned to the board.

Licensure

Assembling a quality health care workforce to meet the needs of the public begins with licensure. Through the licensure process, the state ensures that programs meet requirements and, that they abide by recognized standards of professional conduct.

Regulation

The Board is charged with the responsibility of evaluating when a licensee's professional conduct or ability to practice as a licensed program warrants modification, suspension or revocation of the license to practice. Board members meet at least four times a year, devoting time and attention, to oversee the practice by reviewing complaints from adolescents, family members, information from other health care institutions, and reports from government agencies. The board has the power to further investigate a complaint and can impose other form of discipline, or may seek to restrict, suspend or revoke a license.